CA2ON
Z 1
-63A22

MAY 15 1964

9110

ONTARIO COMMITTEE ON TAXATION

a submission by

THE CANADIAN ARTHRITIS AND RHEUMATISM SOCIETY

May, 1964

900 Yonge St.,
Toronto 5, Ont.

ONTARIO COMMITTEE ON TAXATION

a submission by

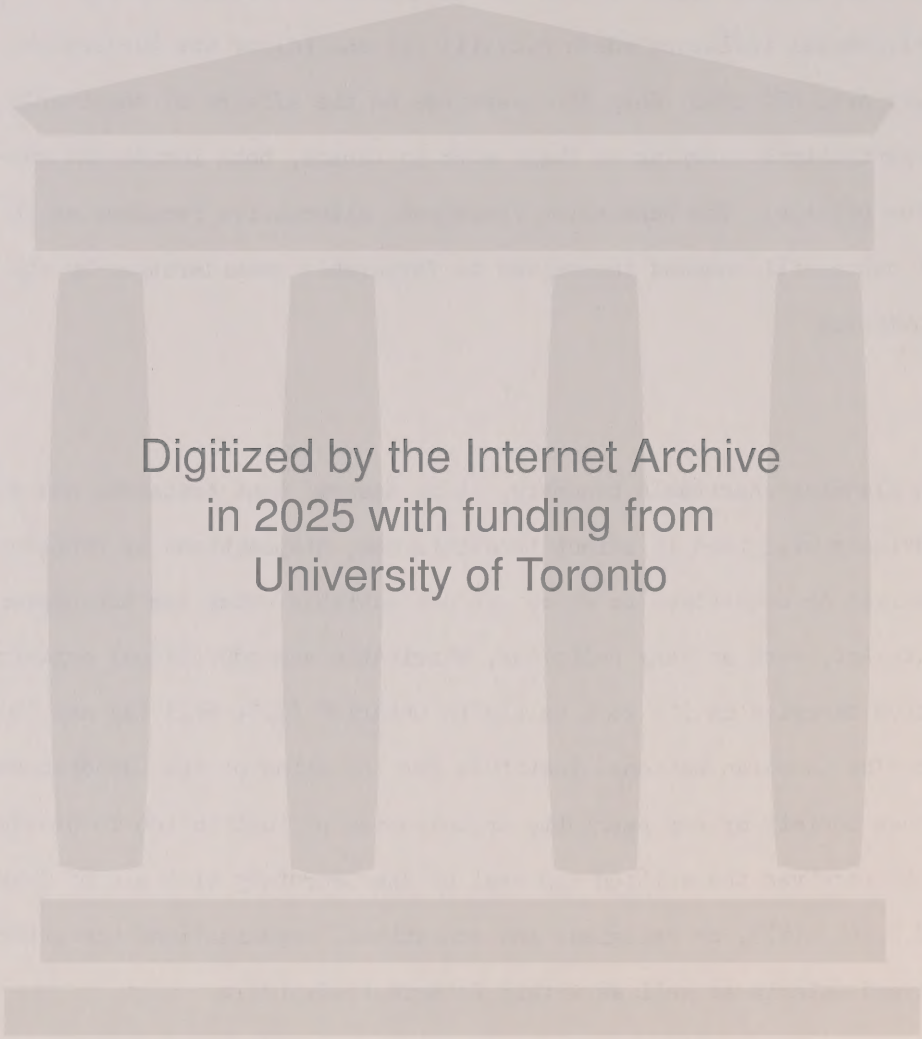
THE CANADIAN ARTHRITIS AND RHEUMATISM SOCIETY

1. This Submission seeks to draw the Committee's attention to the detrimental influence which S.S.5(1) (c) and (d) of the Succession Duty Act, RSO 1960, Chap.386 exercises on the affairs of charitable organizations carrying on their work in Canada, both inside and outside Ontario. The Submission recommends alternative remedies which it hopes will commend themselves to favourable consideration by the Committee.

Problem

2. In planning charitable bequests, it is natural that testators and their advisers will tend to select beneficiaries, dispositions or property devised or bequeathed to which are not dutiable under the Succession Duty Act, such as "any religious, charitable and educational organization carrying on its work solely in Ontario" (S.S. 5(1) (a) and (b)), or "The Canadian National Institute for the Blind or the Canadian Red Cross Society or any patriotic organization or institution in Canada that receives the written approval of the Secretary of State of Canada" (S.S.5(1) (i)), or religious and educational organizations operating beyond Ontario as well as within Ontario (S.S.5(3)).

3. As the word "charitable" does not appear in S.S.5(3), it will be observed that succession duties will be levied against dispositions or properties devised or bequeathed to charitable organizations carrying on their work in other provinces of Canada as well as in Ontario, to the proportionate extent provided for in S.S.5(1) (c) and (d).


Digitized by the Internet Archive
in 2025 with funding from
University of Toronto

https://archive.org/details/submissionstaxat091onta

4. The detrimental influence will become more marked as the rate of abatement under the Estate Tax Act (Canada) 1958 S.C.29 rises to 75%, as agreed at the Dominion-Provincial Conference last autumn, making Ontario succession duties a matter of increasing significance in the planning of charitable bequests.

History

5. From the language employed in S.S.5(1)(i), it would appear that this section was enacted during World War II, although it is believed that most of the patriotic organizations referred to therein are now, for all practical purposes, defunct. It is important, however, to note that the other charitable organizations benefitting from the specific exemptions provided for in this sub-section, viz. the Canadian National Institute for the Blind and the Canadian Red Cross Society, were at that time, almost the only charitable organizations in Canada carrying on their work both in and outside Ontario. Most other charitable organizations carried out their work solely in Ontario (S.S.5(1) (a) and (b)). Other charitable organizations then existing which appear to have a national character, such as the Y.M.C.A. and the Canadian Tuberculosis Association, are in fact loose federations or associations of separately incorporated provincial organizations, which would accordingly benefit under S.S.5(1) (a) and (b).

6. Because of the efficiency which derives in certain circumstances from having a unified corporate structure, a small number of charitable organizations established since World War II have been incorporated without share capital under the Canada Companies Act for the purpose of carrying out their work in all or most provinces. In addition to The Canadian Arthritis and Rheumatism Society, two examples which spring immediately to mind are the Canadian Cancer Society and the Canadian Mental Health

Association. Coincidentally, it may be noted that the Canadian National Institute for the Blind and the Canadian Red Cross Society are single corporations of this kind, and not federations of provincially incorporated organizations. It seems probable that S.S.5(1)(i) and other sub-sections of S.5 made adequate provision for all or most of the charitable organizations existing at the time it was enacted, but it is submitted that this is not now the case.

7. For some reason which is not immediately apparent, the word "charitable" was not included in S.S.5(3) when this amendment was enacted.

Alternative Proposals

8. By adopting the expedient device of winding up its present incorporation under the Canada Companies Act, and by securing separate incorporation in each of the ten provinces, including Ontario, the successors of The Canadian Arthritis and Rheumatism Society would then be able to enjoy the benefits of the exemptions provided for under S.S.5(1) (a) and (b). Presumably similar organizations such as the Canadian Cancer Society and the Canadian Mental Health Association could take similar steps. To do so, however, would, in the particular circumstances of The Canadian Arthritis and Rheumatism Society at least, require it to adopt a form of corporate structure which would greatly hamper the efficiency of its operations.

9. In the view of The Canadian Arthritis and Rheumatism Society, the problem would be satisfactorily resolved in either of two ways:

(i) By amending S.S.5(3) by adding the word "charitable" after the word "religious" in line 2 so that it would read as follows: "Notwithstanding anything in this section, clauses